

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Leslie Silverstein
RE: Licensed Practical Nurse License No. 024448

Petition No. 2003-1230-011-050

MEMORANDUM OF DECISION

Procedural Background

Leslie Silverstein (hereinafter "petitioner") was issued licensed practical nurse license number 024448 on June 4, 1992.

Pursuant to Memorandum of Decision dated July 24, 1996, the Board of Examiners for Nursing (hereinafter "Board") ordered the revocation of petitioner's Licensed Practical Nurse license. Board Exh. 1.

In a letter dated July 15, 2003, petitioner requested that the Board reinstate her Licensed Practical Nurse license. Board Exh. 1.

Pursuant to Petitioner's request, the Board issued a Notice of Hearing dated December 22, 2003, scheduling a hearing for March 17, 2004. Board Exh. 1.

The hearing took place on March 17, 2004, at the Hartford Hospital, Newington Campus, Curtis Building Amphitheater, 181 Patricia M. Genoa Drive, Newington, Connecticut. Petitioner was present at the hearing but was not represented by counsel. Transcript, pp. 1-2.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Pursuant to Memorandum of Decision dated July 24, 1996, the Board ordered the revocation of petitioner's licensed practical nurse license. The order was based on the Board's findings of petitioner's diversion use and excessive use and abuse of the controlled substance Demerol while working as a licensed practical nurse at Hartford Hospital, Hartford, Connecticut during April and May 1994. Board Exh. 1, pp. 4-9.

2. Beginning on or about May 14, 1994, petitioner underwent chemical dependency treatment at The BlueRidge Center, Bloomfield, Connecticut. Following her discharge from The BlueRidge Center, petitioner was followed on an outpatient basis. Board Exh. 1, p. 6; Resp. Exh. A, p. 2.
3. After a relapse and a period of active substance abuse, petitioner began chemical dependency treatment at the Reid Treatment Center, now Alliance of Avon, Avon, Connecticut on or about April 4, 1999, which was followed by an inpatient program at Carnes-Weeks, Torrington, Connecticut. Petitioner moved into the West Hartford Oxford House (a women's recovery house) in May 1999. Resp. Exh. A, p. 4.
4. Petitioner has been an active participant in both Narcotics Anonymous and Nurses for Nurses. Resp. Exh. A, pp. 4-5, 9, 11-12; Resp. Exh. B; Transcript, pp. 7, 11.
5. From August 2000 to February 2001, petitioner was employed at Jefferson House, a skilled nursing facility and sub-division of Hartford Hospital, Newington, Connecticut. In February 2001, petitioner transferred to the Jefferson House Adult Day Health Center in Hartford, Connecticut. Petitioner applied for and was granted a public service license to transport the elderly to and from the center. Through the Employee Assistance Program and Occupational Health Department at Hartford Hospital, petitioner attended outpatient weekly recovery groups for former nurses. Board Exh. 1, 47; Resp. Exh. A, p. 4; Transcript, p. 13.
6. Since July 2002, petitioner has participated in voluntary urine drug screening. All results have been negative for the presence of drugs. Board Exh. 1, PP. 12-43; Resp. Exh. A, pp. 14-15.
7. Petitioner relocated from Connecticut to Sarasota, Florida in November 2003. Petitioner has continued to be an active member of Narcotics Anonymous. Resp. Exh. A, p. 7, 11; Transcript, p. 14.
8. From in or about December 2003, petitioner has been employed at First Step, a drug and alcohol treatment center, Sarasota, Florida. Petitioner's employer indicates that petitioner possesses an exemplary work ethic and is highly motivated. Resp. Exh. A, pp. 7, 10.
9. From in or about December 2003, petitioner has worked part-time as a Certified Nurse's Assistant at Lakeside Terrace Skilled Nursing Center, a subdivision of Sarasota Memorial Hospital, Sarasota, Florida. Petitioner's employer indicates that petitioner has performed her duties in a professional manner and is highly regarded. Board Exh. 1.
10. Beginning on or about January 16, 2004, petitioner has engaged in weekly individual psychotherapy for treatment of addictive disorder in remission and relapse prevention. Board Exh. 1, p.10.

11. Petitioner plans to take a licensed practical nurse refresher course. Resp. Exh. A, p. 8; Transcript, p. 11.

Discussion and Conclusions of Law

As stated in the Notice of Hearing, petitioner has the burden of satisfying the Board that she is able to practice as a licensed practical nurse with reasonable skill and safety by presenting relevant evidence at the hearing, including the following:

1. Evidence from a licensed therapist documenting her drug free status and participation in therapy and counseling;
2. Personal references addressing her drug free status, emotional health, and work habits;
3. Documentary evidence from her current and past employers;
4. Documentary evidence of random, legally defensible screens for drugs and alcohol conducted by a therapist or physician; and,
5. Documentation of participation in support groups.

The Board finds that the petitioner has presented relevant and credible evidence to sustain her burden of satisfying the Board of her ability to return to the practice of nursing under the terms of the Order described below.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. The licensed practical nurse license number 024448, of petitioner, Leslie Silverstein, shall be reinstated to probationary status subject to the following conditions:
 - A. Petitioner shall successfully complete a Board approved licensed practical nurse refresher program.
 - B. Certification of successful completion of the refresher program cited in Paragraph 1A shall be submitted to the Board, directly from the educational institution where said program was taken, within thirty (30) days of the program's completion.

- C. Petitioner shall make application to the licensing authority of the Department of Public Health (hereinafter "Department"). Petitioner shall be administered the licensing examination for licensed practical nurses. Petitioner shall incur all expenses associated with applying for and taking the licensing examination.
 - D. Petitioner shall attain a passing score on the licensing examination for licensed practical nurses.
 - E. Until such time that petitioner successfully completes the refresher program and has attained a passing score on the licensing examination, petitioner is prohibited from practicing as a nurse and petitioner's licensed practical nurse license will be restricted and used for the sole purpose of participating in the refresher program.
2. Petitioner's licensed practical nurse license number 024448, shall be placed on probation for a period of four (4) years commencing on the date petitioner is notified by the Department that she passed the licensed practical nurse licensing examination.
3. If any of the following conditions of probation are not met, petitioner's licensed practical nurse license may be subject to disciplinary action pursuant to § 19a-17 of the General Statutes of Connecticut.
- A. During the period of probation, the Board shall pre-approve petitioner's employment or change of employment within the nursing profession.
 - B. Petitioner shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
 - C. If employed as a nurse petitioner shall cause employer reports to be submitted to the Board, by her immediate supervisor during the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of the month following employment as a nurse. Employer reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.

- D. The employer reports cited in Paragraph 3C above shall include documentation of petitioner's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph 3P below.
- E. Should petitioner's employment as a nurse be involuntarily terminated, petitioner and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- F. If petitioner pursues further training in any subject area that is regulated by the Department, petitioner shall provide a copy of this Memorandum of Decision to the educational institution or, if not the institution, to petitioner's instructor. Such institution or instructor shall notify the Department in writing of receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph 3P below.
- G. At her expense, petitioner shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.
- H. Petitioner shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- I. Petitioner shall cause evaluation reports to be submitted to the Board by her therapist during the entire probationary period. Therapist reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.
- J. The therapist reports cited in Paragraph 3 above shall include documentation of dates of treatment, and an evaluation of petitioner's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph 3P below.

- K. (1) At her expense, petitioner shall be responsible for submitting to observed random chain of custody urine screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by her therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that specimen donor and chain of custody can be identified throughout the screening process.
- (2) Petitioner shall be responsible for notifying the laboratory, her therapist, the Board, the Department and her prescribing practitioner of any drug(s) she is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, the petitioner shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Board and the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:
1. A list of controlled substances prescribed by this provider for the petitioner;
 2. A list of controlled substance(s) prescribed by other providers;
 3. An evaluation of the petitioner's need for the controlled substance;
 4. An assessment of the petitioner's continued need for the controlled substance(s).
- (3) There must be at least two (2) such random alcohol/drug screen monthly during the entire probationary period.
- (4) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.
- (5) Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

- (6) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph P below, by petitioner's therapist, personal physician or the testing laboratory.
- L. Petitioner shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Petitioner shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- M. Petitioner is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- p. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

4. That any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that petitioner has violated this Order will subject petitioner to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's

right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to petitioner's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

5. That this Memorandum of Decision becomes effective on the date signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs petitioner, Leslie Silverstein, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 21st day of July, 2004.

BOARD OF EXAMINERS FOR NURSING

By 